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2 joanna.kishner@dlapiper.com
DLA PIPER LLP (US)
3 3960 Howard Hughes Parkway
Suite 400
4 Las Vegas, Nevada 89169
(702) 677-3900

5 Attorneys for Petitioner
6 Empresa Maritima Americana, Ltd.

7 UNITED STATES DISTRICT COURT

8 DISTRICT OF NEVADA

9 EMPRESA MARITIMA AMERICANA, LTD.,)
10)

11 Petitioner,)

12 v.)

13 VIEW POINT GLOBAL PETROLEUM, LLC,)

14 Respondent.)

Case No.: _____

15 **PETITION AND MEMORANDUM OF POINTS AND AUTHORITIES**
16 **FOR AN ORDER CONFIRMING ARBITRATION AWARD**

17 Petitioner Empresa Maritima Americana, Ltd. ("EMA") respectfully submits this Petition,
18 pursuant to 9 U.S.C. § 9, for an Order confirming an arbitration award issued on October 30, 2009
19 by an arbitration panel in New York, New York in favor of EMA against Respondent View Point
20 Global Petroleum, LLC, a/k/a Viewpoint Global Petroleum, LLC ("VPG").
21

22 **Nature of the Action**

23 1. This is an action pursuant to Section 9 of the Federal Arbitration Act, 9 U.S.C. § 9,
24 to confirm an arbitration award (the "Award") issued on October 30, 2009 by a panel of
25 arbitrators in New York, New York. EMA seeks confirmation of the Award and entry of
26 judgment thereon.
27
28

The Parties

2. EMA is a foreign corporation incorporated in Belize, with a place of business in Mexico City, Mexico.

3. VPG is a domestic corporation incorporated in Nevada. The Business Entity Information form for VPG, retrieved from the Nevada Secretary of State's website on October 25, 2010, is annexed Exhibit 1. At all material times, VPG maintained a place of business in Beverly Hills, California.

Jurisdiction and Venue

4. This Court has subject matter jurisdiction under its diversity jurisdiction pursuant to 28 U.S.C. § 1332 and under its admiralty jurisdiction pursuant to 28 U.S.C. § 1333.

5. Venue in this district is proper under 28 U.S.C. § 1391(a) because VPG is a Nevada corporation.

The Parties' Agreement and VPG's Breach

6. EMA, the disponent owner of the LADY CHIARA (the "Vessel"), by a Charter Party dated April 2, 2009 (the "Charter"), voyage chartered the Vessel to VGP for carriage of a diesel fuel cargo from Rotterdam to a discharge port on the Gulf of Mexico between Pascagoula, Mississippi and Corpus Christi, Texas.

7. While the Vessel waited at Rotterdam from April 7 through April 25, 2009, VPG failed to provide a cargo, despite its repeated assurances that it would do so, and failed to pay demurrage to EMA.

8. EMA claimed 17.65625 days of demurrage as a result of the delays at Rotterdam, and submitted its invoice to VPG on April 27, 2009. VPG did not pay EMA's invoice.

The Arbitration Proceedings and the Arbitral Award

9. On April 30, 2009, EMA sent VPG a demand for arbitration pursuant to Clause 24 of the ASBATANKVOY terms incorporated in the Charter, appointing Mr. David W. Martowski as EMA's party-selected arbitrator. (EMA's April 30, 2009 demand for arbitration is annexed Exhibit 2.)

10. After VPG failed to respond to EMA's demand for arbitration, on June 2, 2009, EMA notified VPG that in accordance with the rights conferred by ASBATANKVOY Clause 24, it appointed Mr. Manfred Arnold as arbitrator on behalf of VPG. (EMA's June 2, 2009 letter to VPG is annexed Exhibit 3.)

11. The two appointed arbitrators selected Mr. Austin L. Dooley as the Panel chairman.

12. On August 19, 2009, EMA submitted to the Panel a Request for an Arbitration Award against VPG, along with a Declaration in Support by Michael Hasselbalch, a chartering consultant to EMA.

13. On August 26, 2009, the Panel directed VPG to notify the Panel by August 28, 2009 whether or not it wished to submit a rebuttal to EMA's submission. The Panel noted that absent a timely reply, it would convene to deliberate and rule on the issues raised by EMA's submission. (The Panel's August 26, 2009 message to EMA is annexed Exhibit 4.) VPG did not respond.

14. On October 30, 2009, the Panel issued the Award in favor of EMA and against VPG in the amount of \$332,407.59, plus interest at the rate of 3.25 percent per annum until the award is paid in full or has been reduced to a judgment. (The Award is annexed Exhibit 5.)

15. VPG has failed to make any payment to satisfy the Award.

Confirmation of the Award

16. The FAA, in 9 U.S.C. § 9, provides that at any time within one year after an arbitration award is made, a party to the arbitration may apply for an order confirming the award. Section 9 further provides that unless the award has been vacated, modified or corrected as prescribed in Sections 10 and 11, the Court must enter an Order confirming the Award.

17. The Award has not been vacated, modified or corrected.

18. No previous application has been made for the relief requested herein.

WHEREFORE, EMA respectfully requests that this Court confirm the Award and enter judgment thereon against View Point Global Petroleum, LLC, a/k/a Viewpoint Global Petroleum, LLC, in the amount of \$332,407.59, plus interest at 3.25% per annum from October 30, 2009 until the date of judgment, with post-judgment interest thereafter in accordance with 28 U.S.C. § 1961.

Dated this 26th day of October, 2010.

DLA PIPER LLP (US)

/s/ Joanna Kishner
Joanna S. Kishner, Esq.
3960 Howard Hughes Parkway
Suite 400
Las Vegas, Nevada 89169
Attorneys for Petitioner Empresa Maritima
Americana, Ltd.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 26th day of October, 2010, a copy of the foregoing **Notice of Petition to Confirm Arbitration Award** and the **Petition and Memorandum of Points and Authorities for an Order Confirming Arbitration Award** along with the exhibits annexed thereto, was served via overnight courier service to:

View Point Global Petroleum, LLC
c/o Paracorp Incorporated (as its registered agent)
318 N. Carson St. #208
Carson City, NV 89701

A courtesy copy of the **Notice of Petition to Confirm Arbitration Award** and the **Petition and Memorandum of Points and Authorities for an Order Confirming Arbitration Award** along with the exhibits annexed thereto was also sent by electronic mail to:

View Point Global Petroleum, LLC
c/o Mr. Anthony Neman
Executive Director/Managing Member
1124 Marilyn Drive
Beverly Hills, CA 90201
c/o: viewpoint.llc@tena.com.br
nemantony@aol.com

/s/ Darhyl Kerr
An Employee of DLA Piper LLP (US)

Exhibit 1

VIEWPOINT GLOBAL PETROLEUM, LLC

Business Entity Information

Status:	Active	File Date:	10/07/2008
Type:	Domestic Limited-Liability Company	Entity Number:	E0628442008-2
Qualifying State:	NV	List of Officers Due:	10/31/2010
Managed By:	Managers	Expiration Date:	
NV Business ID:	NV20081641946	Business License Exp:	5/31/2011

Registered Agent Information

Name:	PARACORP INCORPORATED	Address 1:	318 N CARSON ST #208
Address 2:		City:	CARSON CITY
State:	NV	Zip Code:	89701
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	NV
Mailing Zip Code:			
Agent Type:	Commercial Registered Agent - Corporation		
Jurisdiction:	NEVADA	Status:	Active

Financial Information

No Par Share Count:	0	Capital Amount:	\$ 0
No stock records found for this company			

Officers

☐ Include Inactive Officers

Managing Member - TONY NEMAN			
Address 1:	1130 S. LA BREA AVENUE	Address 2:	
City:	INGLEWOOD	State:	CA
Zip Code:	90301	Country:	USA
Status:	Active	Email:	
Manager - IDELFONSO J. M. S. C. L. QUARESMA			
Address 1:	CALLE AYALA 11 OF 411	Address 2:	
City:	MADRID SPAIN	State:	
Zip Code:		Country:	ESP
Status:	Active	Email:	

Actions\Amendments

Action Type:	Articles of Organization		
Document Number:	20080665211-11	# of Pages:	1
File Date:	10/07/2008	Effective Date:	
(No notes for this action)			
Action Type:	Initial List		
Document Number:	20090137547-98	# of Pages:	1
File Date:	2/12/2009	Effective Date:	
08/09			
Action Type:	Annual List		
Document Number:	20100305992-81	# of Pages:	1
File Date:	5/04/2010	Effective Date:	
(No notes for this action)			

Exhibit 2



DLA Piper LLP (US)
1251 Avenue of the Americas, 27th Floor
New York, New York 10020-1104
www.dlapiper.com

Stanley McDermott III
stanley.mcdermott@dlapiper.com
T 212.335.4790
F 212.884.8490

April 30, 2009

VIA OVERNIGHT MAIL AND E-MAIL

View Point Global Petroleum, LLC
c/o Mr. Anthony Neman
Executive Director/Managing Member
1124 Marilyn Drive
Beverly Hills, CA 90210
c/o viewpoint.llc@tena.com or
nemantony@aol.com

Re: M/V LADY CHIARA
Voyage Charter Party dated April 2, 2009

Dear Sirs:

We are counsel to Empresa Maritima Americana, Ltd. ("EMA"). We hereby demand arbitration of EMA's claims against View Point Global Petroleum, LLC ("VPG") arising out of VPG's breach of the captioned voyage charter party dated April 2, 2009. EMA's claims concern VPG's failure to perform the charter, causing EMA to cancel it as of April 25, 2009.

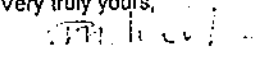
EMA's claims consist of unpaid freight (\$519,750.00) and demurrage (\$317,812.50), as set forth in the attached invoices dated April 27, 2009. VPG also owes EMA accruing interest on those charges together with all costs and attorney's fees incurred by EMA in enforcing its claims.

In accordance with Clause 24 of the incorporated ASBATANKVOY terms, EMA appoints as its party-chosen arbitrator:

Mr. David W. Martowski
91 Central Park West Apt. No. 12B
New York, N.Y. 10023
Tel.: 212.579.6224
Fax: 212.579.6277
Email: dmartowski@verizon.net

Please take note that in accordance with ASBATANKVOY Clause 24, should VPG not, within 20 days, serve notice appointing its arbitrator, then EMA will have the right, without further notice to VPG, to appoint a second arbitrator. Please be guided accordingly.

Very truly yours,


Stanley McDermott III
SMI:as



DEAD FREIGHT CLAIM No. **A3-01601**
REFERENCE No. **EMALCA05**
Claim Date: **27 April 2009**

CHARTERER / PAYOR Viewpoint Global Petroleum LLC,
Beverly Hills, California
PERFORMING VESSEL : M/T LADY CHIARA
VOYAGE : 05
C/P DATED : 02 April 2009
LOAD Port : ROTTERDAM (Intention: EUROPORT)
DISCHARGE Port : U.S. GULF (Intention: HOUSTON, Texas, U.S.A.)
CARGO : Full Cargo 22,500 MT 5% MOLOO DIESEL OIL
Cargo Quantity : 23,625 Metric Tons

Freight Rate : US\$ 22.00 per metric ton

TOTAL FREIGHT DUE: <u>US\$ 519,750.00</u>

PLEASE REMIT THIS AMOUNT TO:

Bank: Wells Fargo Bank, N.A.
420 Montgomery Street
San Francisco, CA 94104 USA

ACH Transfers: 111-900-659

ABA Number : 121-000-248

SWIFT Number: WFBUS65 for wire transfers from overseas to U.S. accounts.

Account Number : 9788-6779-70

Credit: Empresa Maritima Americana, Ltd.

Ref: M/T LADY CHIARA V.05/ Viewpoint

EMPRESA MARITIMA AMERICANA, LTD.



DEMURRAGE INVOICE No. **D0-01534R**
REFERENCE No. **EMALCA05**
Invoice Date: **27 April 2009**

CHARTERER / PAYOR Viewpoint Global Petroleum LLC,
Beverly Hills, California
PERFORMING VESSEL : M/T LADY CHIARA
VOYAGE : 05
C/P DATED : 02 April 2009
LOAD Port : ROTTERDAM (Intention: EUROPORT)
DISCHARGE Port : U.S. GULF (Intention: HOUSTON, Texas, U.S.A.)
CARGO : Full Cargo 22,500 MT One Grade CPP
Demurrage Rate : US\$ 18,000.00 per day pro rata

Demurrage Begins : 07 April 2009 17:15 hours
Demurrage Ends : 25 April 2009 09:00 hours

Days on Demurrage : 17.65625 days

TOTAL DEMURRAGE DUE: <u>US\$ 317,812.50</u>

PLEASE REMIT THIS AMOUNT TO:

Bank: Wells Fargo Bank, N.A.
420 Montgomery Street
San Francisco, CA 94104 USA
ACH Transfers: 111-900-659
ABA Number : 121-000-248
SWIFT Number: WFB1US6S for wire transfers from overseas to U.S. accounts.
Account Number : 9788-6779-70
Credit: Empresa Maritima Americana, Ltd.
Ref: M/T LADY CHIARA V.05/ Viewpoint

EMPRESA MARITIMA AMERICANA, LTD.

Exhibit 3



DLA Piper LLP (US)
1251 Avenue of the Americas, 27th Floor
New York, New York 10020-1104
www.dlapiper.com

Stanley McDermott III
stanley.mcdermott@dlapiper.com
T 212.335.4790
F 212.884.8490

June 2, 2009

Via E-MAIL

View Point Global Petroleum, LLC
c/o Mr. Anthony Neman
Executive Director/Managing Member
1124 Marilyn Drive
Beverly Hills, CA 90210
c/o viewpoint.llc@tena.com.br
nemantony@aol.com

Re: **M/V LADY CHIARA**
Voyage Charter Party dated April 2, 2009

Dear Sirs:

We are counsel to Empresa Maritima Americana, Ltd. ("EMA") and refer to our May 29th letter to which we have received no reply.

In accordance with the rights conferred in ASBATANKVOY clause 24, EMA hereby appoints Mr. Manfred Arnold as an arbitrator on View Point's behalf:

Manfred W. Arnold
Westmarine, Inc.
840 Shackamaxon Drive
Westfield, NJ 07090-3461
Tel.: (908) 232-6155
arnold.westmarine@comcast.net

By copy to Mr. Martowski and Mr. Arnold, we would kindly ask that they proceed to appoint a chairman.

By copy to Mr. Arnold, we enclose our April 30, 2009 arbitration demand with attached invoices, copies of which have previously been forwarded to Mr. Martowski.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Stanley McDermott III'.

Stanley McDermott III

SML:as

cc: David W. Martowski
Manfred W. Arnold

Exhibit 4

----- Original Message -----

From: AUSTIN L. DOOLEY, PH.D. <mailto:dseawx@ix.netcom.com>

To:

stanley.mcdermott@dlapiper.com;viewpoint.llc@tena.com.br;nemantony@aol.com

Cc: David Martowski <mailto:dmartowski@verizon.net> ; Manfred W. Arnold <mailto:arnoldwestmarine@comcast.net>

Sent: 08/26/2009 01:50:01

Subject: RE: LADY CHIARA / Charter Party dated April 2, 2009

Gentlemen: The panel has received Claimant's documents and request for a final award. Claimant attests that the documents were

likewise served on ViewPoint LLC, the Respondent on August 19, 2009.

The panel requests that ViewPoint LLC advise the panel by no later than Friday, August 28, 2009 whether or not they wish to submit a rebuttal. If ViewPoint responds in the affirmative, they will be granted a period certain during which they can submit their defense.

Absent a timely reply, the panel will convene to deliberate and rule on the issues as they are then before it.

Very truly yours,
Austin L. Dooley, Ph.D.
Chair

</PRE>Please consider the environment before printing this email.

The information contained in this email may be confidential and/or legally privileged. It has been sent for the sole use of the intended recipient(s). If the reader of this message is not an intended recipient, you are hereby notified that any unauthorized review, use, disclosure, dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please reply to the sender and destroy all copies of the message. To contact us directly, send to postmaster@dlapiper.com. Thank you.

<PRE>

Exhibit 5

In the Matter of the Arbitration

between

Empresa Maritima Americana Ltd.,
as Disponent Owner of the **LADY CHIARA**

and

View Point Global Petroleum, LLC,
as Charterer

Decision and Final Award

Before: Manfred W. Arnold
David W. Martowski
Austin L. Dooley, PhD, Chairman

Appearances: DLA Piper LLP (US)
by Stanley McDermott III, Esq. and David S. Wenger, Esq.
for and on behalf of Empresa Maritima Americana Ltd.

View Point Global Petroleum, LLC
No appearance

INTRODUCTION

This arbitration arose from a claim for demurrage by Empresa Maritima American Ltd. (hereinafter EMA or Owner). View Point Global Petroleum, LLC (hereinafter VPG or Charterer) did not respond to EMA's claim for \$317,812.50 in demurrage. As a result, EMA invoked the arbitration clause and now claims that amount together with interest, costs and legal fees.

BACKGROUND

On April 2, 2009, EMA chartered the vessel LADY CHIARA to VGP for the carriage of 22,500 metric tons of No. 2 diesel unleaded, undyed and undarker 2.5 NPA, 5 percent more or less in Owner's option on an ASBATANKVOY (1977) charter party form together with Owner's Rider Clauses 1-20 for a voyage from Rotterdam to one safe berth/port US Gulf, Pascagoula (Mississippi) and Corpus Christi (Texas) range. The agreed demurrage rate was \$18,000 per day.

The vessel arrived at Rotterdam on April 7, 2009 and tendered her Notice of Readiness at 1715 hours. VGP did not provide a terminal nomination or other berthing instructions that day or over the next few days until April 10 when EMA was informed that a cargo would be supplied one week later, on April 17. VGP requested EMA to keep the vessel at Rotterdam and offered to immediately pay nine days' demurrage, for the period April 7 to 17, which EMA accepted.

However, by April 17, VGP had not provided a cargo or paid the demurrage, claiming banking problems. On April 18 and 19, VGP verbally reassured EMA that a cargo would soon be forthcoming.

Since no cargo was provided, Owner advised Charterer on April 20 that it planned to consider the charter terminated and that the vessel would move on to other employment unless the nine days' demurrage amount and a confirmation of a loading terminal was received by the end of that day. VGP provided neither, but wrote to Owner requesting that the vessel be kept in Rotterdam until April 23 as they planned to have a loading order by 1600 that date.

Once again, EMA complied with Charterer's request. By April 25, when Charterer had still failed to provide cargo and pay demurrage, EMA arranged alternative employment for the vessel. The LADY CHIARA left Rotterdam on April 25 at 0900 hours, at which time the charter

was terminated by Owner. Owner calculated its claim at 17.65625 days' demurrage as a result of the port stay and submitted its invoice on April 27, 2009.¹

As Charterer did not respond to Owner's claim, the panel was constituted pursuant to Clause 24, Part II of the charter party.

After the panel was formed, written disclosures were made by the members to both EMA and VGP. On August 19, Owner provided its claim to Charterer and the panel by way of a brief supported by the declaration of Owner's chartering consultant and Exhibits A-L.

On August 26, the panel advised VPG as follows:

The panel requests that ViewPoint LLC advise the panel by no later than Friday, August 28, 2009 whether or not they wish to submit a rebuttal. If ViewPoint responds in the affirmative, they will be granted a period certain during which they can submit their defense.

Absent a timely reply, the panel will convene to deliberate and rule on the issues as they are then before it.

No response was received from the Charterer. On August 31, the panel addressed the parties to establish an escrow deposit with the SMA for the panel's potential fees and costs. EMA promptly complied; no response was received from VPG. In the absence of any reaction from the Charterer, the proceedings were closed and the panel moved to its deliberation.

DISCUSSION AND DECISION

The panel has carefully considered the terms of the contract and the exhibits presented and finds that VGP's failure to supply any cargo is a fundamental breach of the charter. The record is replete with assurances from VGP that cargo would be forthcoming, as well as payment of the demurrage then claimed. The facts of the case are that no cargo or demurrage was ever forthcoming from Charterer.

¹ Exhibit L.

We have examined the calculations of the demurrage, as well as considered the applicable charter party terms, and award the full amount \$317,812.50,² to EMA as claimed, together with interest thereon.

INTEREST

Interest, which has been calculated at the rate of 3.25 percent³ p.a. from April 25, 2009 to the date of this award, amounts to \$5,320.09.

COSTS AND FEES

Pursuant to the provision of Clause 24 and considering the circumstances of this particular case, the panel makes an allowance of \$5,000 towards Owner's attorneys' fees and costs.

ARBITRATORS' FEES

The arbitrators' fees and expenses total \$4,275,⁴ which are assessed in full against VGP but payable in the first instance by EMA. After having made full payment to the arbitrators, EMA has the right of claimover and we have so provided in the award. The fees are a joint and several obligation of both parties.

² Clause J of Part I limits the payment of commission "on the actual amount of freight, when and as freight is paid."

³ The weighted average Chase Manhattan Bank Prime Commercial Loan Rate as posted.

⁴ The individual fees are as follows: M.W. Arnold, \$1,400; D.W. Martowski, \$1,200; A.L. Dooley, \$1,675. Payment from the SMA escrow account is to be made upon issuance of this award.

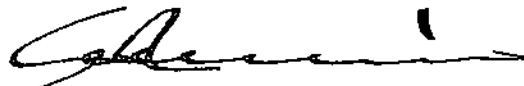
AWARD


Charterer is directed to pay to Owner the amount of \$332,407.59, which we arrived at as follows:

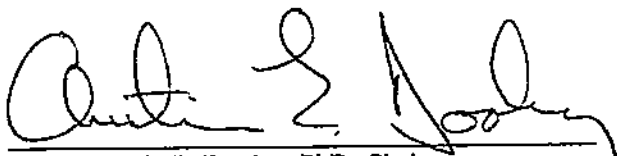
| | |
|--|-----------------|
| Demurrage | \$317,812.50 |
| Interest thereon | 5,320.09 |
| Allowance for attorneys' fees and costs | 5,000.00 |
| Arbitrators' fees paid on Charterer's behalf | <u>4,275.00</u> |
| TOTAL AMOUNT DUE OWNER | \$332,407.59 |

Interest at the rate of 3.25 percent per annum shall continue to accrue on the principal amount until paid in full or the award has been reduced to judgment, whichever first occurs.

The arbitration clause provides that this award may be made a rule of the court.



Manfred W. Arnold

David W. Martowski

Austin L. Dooley, PhD, Chairman

New York, New York
October 30, 2009